

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2296

AN ACT

AMENDING SECTION 16-911, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2016, CHAPTER 79, SECTION 12; AMENDING SECTION 16-922, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2011, CHAPTER 149, SECTION 1; AMENDING SECTIONS 16-922 AND 16-926, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2016, CHAPTER 79, SECTION 12; RELATING TO CAMPAIGN CONTRIBUTIONS AND EXPENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-911, Arizona Revised Statutes, as added by Laws
3 2016, chapter 79, section 12, is amended to read:

4 16-911. Exemption from definition of contribution

5 A. A person may make any contribution not otherwise prohibited by law.

6 B. The following are not contributions:

7 1. The value of an individual's volunteer services or expenses that
8 are provided without compensation or reimbursement, including the
9 individual's:

10 (a) Travel expenses.

11 (b) Use of real or personal property.

12 (c) Cost of invitations, food or beverages.

13 (d) Use of e-mail, internet activity or social media messages, only if
14 the individual's use is not paid for by the individual or any other person
15 and if the e-mails, social media messages or other internet activities do not
16 contain or include transmittal of a paid advertisement or paid fund-raising
17 solicitation.

18 2. The costs incurred for covering or carrying a news story,
19 commentary or editorial by a broadcasting station or cable television
20 operator, an internet website, a newspaper or another periodical publication,
21 including an internet-based or electronic publication, if the cost for the
22 news story, commentary or editorial is not paid for by and the medium is not
23 owned or under the control of a candidate or committee.

24 3. Any payment to defray the expense of an elected official meeting
25 with constituents or attending an informational tour, conference, seminar or
26 presentation, if the payor or the elected official does not attempt to
27 influence the result of an election and the payment is reported if required
28 pursuant to title 38, chapter 3.1 or title 41, chapter 7, article 8.1, or
29 both.

30 4. The payment by a political party to support its nominee, including:

31 (a) The printing or distribution of, or postage expenses for, voter
32 guides, sample ballots, pins, bumper stickers, handbills, brochures, posters,
33 yard signs and other similar materials distributed through the party.

34 (b) Coordinated political party expenditures.

35 5. The payment by any person to defray a political party's operating
36 expenses or party-building activities, including:

37 (a) Party staff and personnel.

38 (b) Studies and reports.

39 (c) Voter registration, recruitment, polling and turnout efforts.

40 (d) Party conventions and party meetings.

41 (e) Construction, purchase or lease of party buildings or facilities.

42 6. The value of any of the following to a committee:

43 (a) Interest earned on the committee's deposits or investments.

1 (b) Transfers between committees to reimburse expenses and distribute
2 monies raised through a joint fund-raising effort, ~~except that contributions~~
3 ~~shall be allocated as described in the fund-raising solicitation and expenses~~
4 ~~shall be allocated in the same proportion as contributions~~ IF THE TRANSFERS
5 COMPLY WITH AN AGREEMENT TO REIMBURSE AND DISTRIBUTE MONIES THAT WAS EXECUTED
6 BEFORE THE JOINT FUND-RAISING EFFORT OCCURRED.

7 (c) Payment of a committee's legal or accounting expenses by any
8 person.

9 (d) An extension of credit for goods and services on a committee's
10 behalf by a creditor if the terms are substantially similar to extensions of
11 credit to nonpolitical debtors that are of similar risk and size of
12 obligation. The creditor must make a commercially reasonable attempt to
13 collect the debt, except that if an extension of credit remains unsatisfied
14 by the committee after six months the committee is deemed to have received a
15 contribution but the creditor is not deemed to have made a contribution.

16 7. The value of nonpartisan communications that are intended to
17 encourage voter registration and turnout efforts.

18 8. Any payment to a filing officer for arguments in a publicity
19 pamphlet.

20 9. The payment by any sponsor or its affiliate for the costs of
21 establishing, administering and soliciting contributions from its employees,
22 members, executives, stockholders and retirees and their families to the
23 sponsor's separate segregated fund.

24 10. Any payment by any entity for the costs of communicating with its
25 employees, members, executives, stockholders and retirees and their families
26 about any subject, without regard to whether those communications are made in
27 coordination with any candidate or candidate's agent.

28 11. The value of allowing a candidate or a committee's representative
29 to appear at any private residence or at the facilities of any entity to
30 speak about the candidate's campaign or about a ballot measure, if the venue
31 is furnished by the venue's owner, is not paid for by a third party and is
32 not a sports stadium, coliseum, convention center, hotel ballroom, concert
33 hall or other similar arena that is generally open to the public.

34 12. The costs of hosting a debate or candidates' forum, if at least
35 two opposing candidates, with respect to any given office sought, or
36 representatives of at least two opposing ballot measure campaigns, with
37 respect to any measure on the ballot, are invited with the same or similar
38 advance notice and method of invitation.

39 13. The preparation and distribution of voter guides, subject to the
40 following:

41 (a) A featured candidate or ballot measure shall not receive greater
42 prominence or substantially more space in the voter guide than any other
43 candidate or ballot measure.

1 (b) The voter guide shall not include any message that constitutes
2 express advocacy.

3 14. Monies that are loaned by a financial institution in the ordinary
4 course of business and not for the purpose of influencing the results of an
5 election, except that the loan is deemed a pro rata contribution by any
6 endorser or guarantor, other than the candidate's spouse.

7 15. The costs of publishing a book or producing a documentary, if the
8 publication and production are for distribution to the general public through
9 traditional distribution mechanisms or a fee is obtained for the purchase of
10 the publication or viewing of the documentary.

11 C. This section does not imply that any transactions that are not
12 specifically listed in subsection B of this section are contributions unless
13 those transactions otherwise meet the definition of contribution AS defined
14 in section 16-901.

15 Sec. 2. Section 16-922, Arizona Revised Statutes, as added by Laws
16 2011, chapter 149, section 1, is amended to read:

17 16-922. Religious assembly, institution; charitable
18 organization; registration exemption

19 Notwithstanding any other law, this state and any agency or political
20 subdivision of this state shall not require a person OR ENTITY to:

21 1. Register as a political committee OR FILE ANY REPORTS pursuant to
22 this chapter if the person OR ENTITY is a religious assembly or institution
23 OR IS ANY OTHER ENTITY WITH A CHARITABLE TAX EXEMPTION UNDER SECTION
24 501(c)(3) OF THE INTERNAL REVENUE CODE OR ANY SUCCESSOR PROVISION OF FEDERAL
25 TAX LAW that does not spend a substantial amount of time or assets, within
26 the meaning of section 501(c)(3) of the internal revenue code, on influencing
27 any federal, state or local legislation, referendum, initiative or
28 constitutional amendment.

29 2. REGISTER AS A POLITICAL COMMITTEE IF ALL OF THE FOLLOWING APPLY:

30 (a) THE PERSON HAS TAX EXEMPT STATUS UNDER SECTION 501(a) OF THE
31 INTERNAL REVENUE CODE OR ANY OTHER SUCCESSOR PROVISION OF FEDERAL TAX LAW.

32 (b) EXCEPT FOR A RELIGIOUS ASSEMBLY OR INSTITUTION, THE PERSON HAS
33 PROPERLY FILED FORM 1023 OR FORM 1024 WITH THE INTERNAL REVENUE SERVICE OR
34 THE EQUIVALENT SUCCESSOR FORM DESIGNATED BY THE INTERNAL REVENUE SERVICE.

35 (c) THE PERSON HAS PROPERLY FILED FORM 990 WITH THE INTERNAL REVENUE
36 SERVICE OR THE EQUIVALENT SUCCESSOR FORM DESIGNATED BY THE INTERNAL REVENUE
37 SERVICE.

38 (d) THE PERSON'S TAX EXEMPT STATUS HAS NOT BEEN DENIED OR REVOKED BY
39 THE INTERNAL REVENUE SERVICE.

40 (e) THE PERSON REMAINS IN GOOD STANDING WITH THE CORPORATION
41 COMMISSION.

1 Sec. 3. Section 16-922, Arizona Revised Statutes, as added by Laws
2 2016, chapter 79, section 12, is amended to read:

3 16-922. Independent and coordinated expenditures

4 A. Any person may make independent expenditures.

5 B. An expenditure is not an independent expenditure if either of the
6 following applies:

7 1. There is actual coordination with respect to an expenditure between
8 a candidate or candidate's agent and the person making the expenditure or
9 that person's agent.

10 2. Both of the following apply:

11 (a) The expenditure is based on nonpublic information about a
12 candidate's or candidate committee's plans or needs that the candidate or
13 candidate's agent provides to the person making the expenditure or that
14 person's agent.

15 (b) The candidate or candidate's agent provides the nonpublic
16 information with an intent toward having the expenditure made.

17 C. In evaluating whether an expenditure is an independent expenditure,
18 a filing officer or enforcement officer may consider the following to be
19 rebuttable evidence of coordination:

20 1. Any agent of the person making the expenditure is also an agent of
21 the candidate whose election or whose opponent's defeat is being advocated by
22 the expenditure.

23 2. In the same election cycle, the person making the expenditure or
24 that person's agent is or has been authorized to raise or spend monies on the
25 candidate's behalf.

26 3. In the same election cycle, the candidate is or has been authorized
27 to raise money or solicit contributions on behalf of the person making the
28 expenditure.

29 D. Notwithstanding subsection C of this section, coordination does not
30 exist under either of the following:

31 1. If the person making the expenditure maintains a firewall between
32 the person and that person's agent in compliance with all of the following:

33 (a) The person's agent did not participate in deciding to make the
34 expenditure or in deciding the content, timing or targeting of the
35 expenditure.

36 (b) The person making the expenditure has a written policy
37 establishing the firewall and its requirements.

38 (c) The person making the expenditure and the person's agent followed
39 the written policy regarding the firewall.

40 2. Solely because an agent of a person making the expenditure serves
41 or has served on a candidate's host committee for a fund-raising event.

42 E. An expenditure that is coordinated with a candidate, other than a
43 coordinated party expenditure, is deemed an in-kind contribution to the
44 candidate.

1 F. An entity that makes an independent expenditure, other than an
2 individual or a committee, shall file independent expenditure reports
3 pursuant to section 16-926, subsection ~~G~~ H.

4 Sec. 4. Section 16-926, Arizona Revised Statutes, as added by Laws
5 2016, chapter 79, section 12, is amended to read:

6 16-926. Campaign finance reports; contents

7 A. A committee shall file campaign finance reports with the filing
8 officer. The secretary of state's instructions and procedures manual adopted
9 pursuant to section 16-452 shall prescribe the format for all reports and
10 statements.

11 B. A campaign finance report shall set forth:

12 1. The amount of cash on hand at the beginning of the reporting
13 period.

14 2. Total receipts during the reporting period, including:

15 (a) An itemized list of receipts in the following categories,
16 including the source, amount and date of receipt, together with the total of
17 all receipts in each category:

18 (i) Contributions from individuals whose contributions exceed fifty
19 dollars for that election cycle, including identification of the
20 contributor's occupation and employer.

21 (ii) Contributions from candidate committees.

22 (iii) Contributions from political action committees.

23 (iv) Contributions from political parties.

24 (v) Contributions from partnerships.

25 (vi) For a political action committee or political party,
26 contributions from corporations and limited liability companies, including
27 identification of the corporation's or limited liability company's file
28 number issued by the corporation commission.

29 (vii) For a political action committee or political party,
30 contributions from labor organizations, including identification of the labor
31 organization's file number issued by the corporation commission.

32 (viii) For a candidate committee, a candidate's contribution of
33 personal monies.

34 (ix) All loans, including identification of any endorser or guarantor
35 other than a candidate's spouse, and the contribution amount endorsed or
36 guaranteed by each.

37 (x) Rebates and refunds.

38 (xi) Interest on committee monies.

39 (xii) The fair market value of in-kind contributions received.

40 (xiii) Extensions of credit that remain outstanding, including
41 identification of the creditor and the purpose of the extension.

42 (b) The aggregate amount of contributions from all individuals whose
43 contributions do not exceed fifty dollars for the election cycle.

1 3. An itemized list of all disbursements in excess of two hundred
2 fifty dollars during the reporting period in the following categories,
3 including the recipient, the recipient's address, a description of the
4 disbursement and the amount and date of the disbursement, together with the
5 total of all disbursements in each category:

- 6 (a) Disbursements for operating expenses.
- 7 (b) Contributions to candidate committees.
- 8 (c) Contributions to political action committees.
- 9 (d) Contributions to political parties.
- 10 (e) Contributions to partnerships.
- 11 (f) For a political action committee or political party, contributions
12 to corporations and limited liability companies, including identification of
13 the corporation's or limited liability company's file number issued by the
14 corporation commission.
- 15 (g) For a political action committee or political party, contributions
16 to labor organizations, including identification of the labor organization's
17 file number issued by the corporation commission.
- 18 (h) Repayment of loans.
- 19 (i) Refunds of contributions.
- 20 (j) Loans made.
- 21 (k) The value of in-kind contributions provided.
- 22 (l) Independent expenditures that are made to advocate the election or
23 defeat of a candidate, including identification of the candidate, office
24 sought by the candidate, election date, mode of advertising and distribution
25 or publication date.
- 26 (m) Expenditures to advocate the passage or defeat of a ballot
27 measure, including identification of the ballot measure, ballot measure
28 serial number, election date, mode of advertising and distribution or
29 publication date.
- 30 (n) Expenditures to advocate for or against the issuance of a recall
31 election order or for the election or defeat of a candidate in a recall
32 election, including identification of the officer to be recalled or candidate
33 supported or opposed, mode of advertising and distribution or publication
34 date.
- 35 (o) Any other disbursements or expenditures.

36 4. The total sum of all receipts and disbursements for the reporting
37 period.

38 5. A certification by the committee treasurer, issued under penalty of
39 perjury, that the contents of the report are true and correct.

40 **C. FOR THE PURPOSES OF REPORTING UNDER SUBSECTION B OF THIS SECTION:**
41 **1. A CONTRIBUTION IS DEEMED TO BE RECEIVED EITHER ON THE DATE THE**
42 **COMMITTEE KNOWINGLY TAKES POSSESSION OF THE CONTRIBUTION OR THE DATE OF THE**
43 **CHECK OR CREDIT CARD PAYMENT. FOR AN IN-KIND CONTRIBUTION OF SERVICES, THE**

1 CONTRIBUTION IS DEEMED MADE EITHER ON THE DATE THE SERVICES ARE PERFORMED OR
2 THE DATE THE COMMITTEE RECEIVES THE SERVICES.

3 2. AN EXPENDITURE OR DISBURSEMENT IS DEEMED MADE EITHER ON THE DATE
4 THE COMMITTEE AUTHORIZES THE MONIES TO BE SPENT OR THE DATE THE MONIES ARE
5 WITHDRAWN FROM THE COMMITTEE'S ACCOUNT. FOR A TRANSACTION BY CHECK, THE
6 EXPENDITURE OR DISBURSEMENT IS DEEMED MADE ON THE DATE THE COMMITTEE SIGNS
7 THE CHECK. FOR A CREDIT CARD TRANSACTION ON PAPER, THE EXPENDITURE OR
8 DISBURSEMENT IS DEEMED MADE ON THE DATE THE COMMITTEE SIGNS THE AUTHORIZATION
9 TO CHARGE THE CREDIT CARD. FOR AN ELECTRONIC TRANSACTION, AN EXPENDITURE OR
10 DISBURSEMENT IS DEEMED MADE ON THE DATE THE COMMITTEE ELECTRONICALLY
11 AUTHORIZES THE CHARGE. FOR AN AGREEMENT TO PURCHASE GOODS OR SERVICES, THE
12 EXPENDITURE OR DISBURSEMENT IS DEEMED MADE EITHER ON THE DATE THE PARTIES
13 ENTER INTO THE AGREEMENT OR THE DATE THE PURCHASE ORDER IS ISSUED.

14 3. A COMMITTEE MAY RECORD ITS TRANSACTIONS USING ANY OF THE METHODS
15 AUTHORIZED BY THIS SUBSECTION BUT FOR EACH TYPE OF CONTRIBUTION, EXPENDITURE
16 OR DISBURSEMENT MADE OR RECEIVED, THE COMMITTEE SHALL USE A CONSISTENT METHOD
17 OF RECORDING TRANSACTIONS THROUGHOUT THE ELECTION CYCLE.

18 ~~E.~~ D. The amount of an in-kind contribution of services shall be
19 equal to the usual and normal charges for the services on the date ~~received~~
20 ~~by the committee~~ PERFORMED.

21 ~~D.~~ E. If any receipt or disbursement is earmarked, the committee
22 shall report the identity of the person to whom the receipt or disbursement
23 is earmarked.

24 ~~E.~~ F. Candidate committee reports shall be cumulative for the
25 election cycle to which they relate. Political action committee and
26 political party reports shall be cumulative for a two-year election cycle
27 ending in the year of a statewide general election. If there has been no
28 change during the reporting period in an item listed in the immediately
29 preceding report, only the amount need be carried forward.

30 ~~F.~~ G. For a political action committee that receives individual
31 contributions through a payroll deduction plan, that committee is not
32 required to separately itemize each contribution received from the
33 contributor during the reporting period. In lieu of itemization, the
34 committee may report all of the following:

35 1. The aggregate amount of contributions received from the contributor
36 through the payroll deduction plan during the reporting period.

37 2. The individual's identity.

38 3. The amount deducted per pay period.

39 ~~G.~~ H. An entity that makes independent expenditures or ballot measure
40 expenditures in excess of one thousand dollars during a reporting period
41 shall file an expenditure report with the filing officer for the applicable
42 reporting period. Expenditure reports shall identify the candidate or ballot
43 measure supported or opposed, office sought by the candidate, if any,

1 election date, mode of advertising and first date of publication, display,
2 delivery or broadcast of the advertisement.

3 Sec. 5. Retroactivity

4 Section 16-922, Arizona Revised Statutes, as added by Laws 2011,
5 chapter 149, section 1 and this act, applies retroactively to ninety days
6 before the date of the 2016 primary election.

7 Sec. 6. Effective date

8 Sections 1, 3 and 4 of this act are effective from and after the last
9 day for filing a preelection campaign finance report for the November 2016
10 general election as prescribed by section 16-913, subsection B, paragraph 2,
11 Arizona Revised Statutes, as amended by Laws 2012, chapter 257, section 2,
12 chapter 290, section 1 and chapter 361, section 18.